

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LOUIE MORENO, JR.,

Petitioner,

No. CIV S-04-0289 DFL DAD P

vs.

SCOTT KERNAN, Warden,

Respondent.

ORDER

Petitioner is a state prisoner proceeding pro se with a second amended petition for writ of habeas corpus. Petitioner has filed a document titled "Motion to Amend Second Amended Writ-Petition with Exhibits and Stay or Application for Enlargement of Time." Petitioner has been granted four previous extensions of time to file a traverse to the answer filed by respondent on September 15, 2004. (See Orders filed Oct. 19, 2004; Nov. 12, 2004; Nov. 23, 2004; Jan. 31, 2005; March 4, 2005.) In the court's most recent order, petitioner was granted ninety days in which to complete and file his traverse. Petitioner now seeks an additional ninety days.

Petitioner states that he wishes "to amend second amended writ-petition with evidence of exhibits." He asserts that the proposed exhibits "are mentioned and referred to within the body of the second amended writ of habeas corpus petition" and indicates that he is

1 awaiting arrival of trial transcripts. The record reflects that petitioner filed his second amended  
2 petition on June 1, 2004. The court will not grant petitioner leave to amend his pleading a third  
3 time at this late date solely for the purpose of attaching exhibits to it. On September 15, 2004,  
4 respondents lodged a copy of the complete state court record, including the clerk's and reporter's  
5 transcripts. In his traverse, petitioner may cite the transcripts by referring to relevant pages and  
6 shall not submit copies of transcripts already lodged with this court.

7               Petitioner has not cited any legal authority in support of his motion to stay this  
8 action. Petitioner will be granted a final extension of time to September 2, 2005, in which to file  
9 a traverse to the answer filed in September 2004. No further extension of time will be granted.  
10 If a traverse is not filed and served on or before September 2, 2005, the second amended petition  
11 for writ of habeas corpus will be deemed submitted on that date.

12               Accordingly, IT IS HEREBY ORDERED that:

- 13               1. Petitioner's May 16, 2005 motion to amend and for stay is denied;  
14               2. Petitioner's May 16, 2005 application for enlargement of time to file a traverse  
15 is granted; and  
16               3. Petitioner shall file and serve his traverse on or before September 2, 2005; no  
17 further enlargement of time will be granted for this purpose.

18 DATED: May 24, 2005.

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21 DALE A. DROZD  
22 UNITED STATES MAGISTRATE JUDGE  
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DAD:13  
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